

Robert L. Sterup
BROWN LAW FIRM, P.C.
315 North 24th Street
P.O. Drawer 849
Billings, MT 59103-0849
Tel. (406) 248-2611
Fax (406) 248-3128
rsterup@brownfirm.com

Attorney for Defendant

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BUTTE DIVISION**

KEVIN WASHINGTON,

Plaintiff,

vs.

MATTHEW BRENT GOETTSCHKE,

Defendant.

FX SOLUTIONS, INC.

Plaintiff,

vs.

MATTHEW BRENT GOETTSCHKE,

Defendant.

Cause No. CV-20-2-BU-BMM-KLD

**DEFENDANT’S OBJECTIONS TO
FINDINGS AND
RECOMMENDATION**

Defendant Matthew Goettsche respectfully submits conditional objection to Findings and Recommendations of the Hon. Magistrate Judge (“F&R”). Doc.#74.

I. INTRODUCTION

The F&R recommended grant of Goettsche's Motion to Compel Arbitration and Stay of this litigation pending arbitration. F&R p. 18. Goettsche submits the F&R should be **adopted**.

In the alternative, and in the event Plaintiffs object to the F&R¹ and the Court declines to adopt the F&R without change, then Goettsche conditionally seeks an Order of the Court staying the litigation pending the outcome of District of New Jersey criminal proceedings.

The Magistrate Judge declined to address the issue. F&R p. 18. If the F&R is adopted, then the issue need not be addressed, and this conditional objection is mooted.

In the alternative, however, all claims against Goettsche should be stayed pending the outcome of criminal proceedings.

II. DISCUSSION

A stay of both civil cases is warranted under the standards of *Keating v. Office of Thrift Supervision*, 45 F.3d 322, 324 (9th Cir. 1995). Goettsche has met his burden in showing that 1) his Fifth Amendment rights are significantly implicated in these civil cases, which factually overlap with the criminal case, 2) the Plaintiff's interest

¹ Plaintiffs have signaled intent to object to the F&R. In the event Plaintiffs do not object, however, then this conditional objection is mooted.

in proceeding expeditiously is outweighed by Goettsche's Fifth Amendment rights, 3) litigating this proceeding would place a heavy burden on the Defendant, 4) it would be more convenient and efficient for this Court to stay these proceedings, and 5) the interests of third parties and the public do not weigh against a stay. *See Keating*, 45 F.3d at 324. *See* Doc.#62 pp. 6-14 incorporated by reference herein. Fed. R. Civ. P. 10(c) ("A statement in a pleading may be adopted by reference elsewhere in the same pleading or in any other pleading or motion.")

CONCLUSION

The F&R should be adopted. In the alternative, the litigation should be stayed pending the outcome of criminal proceedings.

RESPECTFULLY SUBMITTED this 17th day of June 2020.

By: /s/ Robert L. Sterup
Robert L. Sterup
BROWN LAW FIRM, P.C.

CERTIFICATE OF COMPLIANCE

The undersigned, Robert L. Sterup, certifies that Defendant's Objection to Findings and Recommendation complies with the requirements of Rule 7.1(d)(2). The lines in this document are double spaced, except for footnotes and quoted and indented material, and the document is proportionately spaced with Times New Roman Font typeface consisting of fourteen characters per inch. The total word count is 331 words, excluding caption and certificates of compliance and service. The undersigned relies on the word count of the word processing system used to prepare this document.

DATED this 17th day of June, 2020.

/s/ Robert L. Sterup
Robert L. Sterup

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of June, 2020, a copy of the foregoing document was served on the following persons by the following means:

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1. CLERK, UNITED STATES DISTRICT COURT

2. Kris McLean

3. Tyson McLean

By: /s/ Robert Sterup
Robert Sterup